
Commerce & Labor Committee

HB 3185

Brief Description: Concerning violations of wage payment requirements.

Sponsors: Representative McCoy.

Brief Summary of Bill

- For violations of wage payment requirements, authorizes the Department of Labor and Industries (Department) to order the payment of wages owed, including interest and, for willful violations of wage payment requirements, civil penalties.
- Provides for immunity from and waivers of civil penalties for employers in specified circumstances.
- Provides for an election of remedies by the employee.
- Establishes procedures for administrative review of citations and notices of assessment, and for collection of unpaid wages, interest, and civil penalties.

Hearing Date: 1/30/06

Staff: Jill Reinmuth (786-7134).

Background:

The state Minimum Wage Act and other laws establish standards for the payment of wages. These standards are enforced by the Department of Labor and Industries (Department), which has authority to investigate wage violations, order the payment of wages owed to workers, and bring civil actions to collect wages. Employees are also permitted to bring civil actions to collect unpaid wages. Criminal penalties apply to certain violations.

An employer who pays an employee less than the amount to which the employee is entitled is liable in a civil action to the employee, even if the employee agreed to work for less. If the employee is successful in obtaining a judgment for wages owed, attorneys' fees are assessed against the employer, unless the recovery is equal to or less than the amount the employer admitted to be owing.

An employer is also liable in a civil action to the employee or employee's assignee for collecting a rebate from employees' wages and for paying a lower wage than obligated by law or contract

when the paying of lower wages is willful and is done with intent to deprive. In this case, the employer is subject to exemplary damages of twice the amount of wages withheld.

The Department may investigate wage violations, order employers to pay, and institute actions to collect after a determination that sums are owed. The Department also may take assignments of wage claims and prosecute actions for employees who are financially unable to employ counsel.

A three-year statute of limitation applies to a number of causes, including an action on an unwritten contract (six years for written contract). The statute of limitations is two years for any action with no other limit specified.

Summary of Bill:

The Department of Labor and Industries (Department) may issue to an employer a citation and notice of assessment for a violation of a wage payment requirement. "Wage payment requirement" includes the requirements to pay minimum wages, overtime compensation, and final wages, as well the requirement to withhold only lawful deductions from wages. The Department must issue the citation and notice of assessment within three years after the date when the wages were due, unless a longer period of time applies under law.

The Department may order the employer to pay employees all wages owed, including interest of one percent per month. If the violation is willful, the Department may also order the employer to pay a civil penalty.

Civil penalties for willful violations of wage payment requirements must be the greater of \$500 or 10 percent of unpaid wages, but not more than \$20,000. Civil penalties must be deposited in the Supplemental Pension Fund.

The Department may not assess civil penalties if the employer reasonably relied on a rule or an interpretive or administrative policy. In addition, an employer is immune from civil penalties if the employer reasonably relied on any written order, ruling, approval, opinion, advice, determination or interpretation of the director of the Department. Records of such written orders, rulings, approvals, opinions, advice, determinations, and interpretations must be maintained by the Department.

The Department must waive civil penalties if the employer paid the wages owed, including interest, within five business days of receiving the citation and notice of assessment. The Department may waive civil penalties if the employer paid the wages owed.

An employee who has filed a written wage complaint may elect to terminate the Department's administrative action, and thereby preserve any private right of action by providing written notice to the Department within five business days of the Department's issuance of a citation and notice of assessment. If the employee elects to terminate the Department's administrative action, the Department must discontinue its action against the employer. Any citation and notice of assessment already issued must be vacated and is not admissible in a private action.

Procedures are established for administrative review of citations and notices of assessment, as well as collection of unpaid wages and civil penalties.

Rules Authority: The director of the Department of Labor and Industries is authorized to adopt rules to carry out the purposes of the bill.

Appropriation: None.

Fiscal Note: Requested on January 26, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.